

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 17-106V

Filed: October 27, 2017

UNPUBLISHED

MARCIA MILLER,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Damages Decision Based on Proffer;  
Influenza (Flu) Vaccine; Guillain-  
Barre Syndrome (GBS)

*Randall G. Knutson, Knutson & Casey Law Firm, Mankato, MN, for petitioner.*

*Debra A. Filteau Begley, U.S. Department of Justice, Washington, DC, for respondent.*

## **DECISION AWARDING DAMAGES**<sup>1</sup>

**Dorsey**, Chief Special Master:

On January 23, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleged that she developed Guillain-Barré Syndrome (“GBS”) resulting from the influenza vaccine she received on September 29, 2015. Petition at 1, ¶¶ 4, 17-18. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On July 28, 2017, respondent filed his Rule 4(c) Report stating that he “does not contest entitlement in this matter.” Respondent’s Rule 4(c) Report at 1. The same day, a ruling on entitlement was issued, finding petitioner entitled to compensation. On October 27, 2017, respondent filed a proffer on award of compensation (“Proffer”) indicating petitioner should be awarded \$160,000.00 for past and future pain and suffering and \$500.00 for past unreimbursed medical expenses for a total award of

<sup>1</sup> Because this unpublished decision contains a reasoned explanation for the action in this case, the undersigned intends to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, the undersigned agrees that the identified material fits within this definition, the undersigned will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

\$160,500.00. Proffer at 1. In the Proffer, respondent represented that petitioner agrees with the proffered award. Based on the record as a whole, the undersigned finds that petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **the undersigned awards petitioner a lump sum payment of \$160,500.00 in the form of a check payable to petitioner, Marcia Miller. This total amount of damages represents \$160,000.00 for past and future pain and suffering and \$500.00 for past unreimbursed medical expenses.** This amount represents compensation for all damages that would be available under § 15(a).

The clerk of the court is directed to enter judgment in accordance with this decision.<sup>3</sup>

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master

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<sup>3</sup> Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS  
OFFICE OF SPECIAL MASTERS**

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**MARCIA MILLER,**

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Petitioner,

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**No. 17-106V**

CHIEF SPECIAL MASTER

NORA BETH DORSEY

v.

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**SECRETARY OF HEALTH AND  
HUMAN SERVICES,**

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\*

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Respondent.

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**RESPONDENT’S PROFFER ON AWARD OF COMPENSATION**

**I. Items of Compensation**

The Court issued a Ruling on Entitlement on July 28, 2017. Based upon the evidence of record, respondent proffers that petitioner should be awarded compensation as follows:

\$160,000.00, for past and future pain and suffering, and \$500.00 for past unreimbursed medical expenses. These amounts represent all elements of compensation to which petitioner would be entitled under 42 U.S.C. § 300aa-15(a).<sup>1</sup> Petitioner agrees.

**II. Form of the Award**

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment of \$160,500.00, in the form of a check payable to petitioner. Petitioner agrees.

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<sup>1</sup> Should petitioner die prior to the entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future medical expenses, future lost earnings, and future pain and suffering.

Respectfully submitted,

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Acting Assistant Attorney General

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Acting Director  
Torts Branch, Civil Division

CATHARINE E. REEVES  
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/s/ DEBRA A. FILTEAU BEGLEY  
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Dated: October 27, 2017